

1 Steele N. Gillaspey, Esq.
2 State Bar No. 145935
2 **GILLASPEY & GILLASPEY**
3 The NBC Tower
3 225 Broadway, Suite 2220
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4 Telephone: 619.234.3700
5 Attorney for Plaintiff,
5 STORZ PERFORMANCE, INC.

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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 STORZ PERFORMANCE, INC.,)
11 a California corporation,)
12 Plaintiff,)
13 vs.)
14 MOTO ITALIA, form unknown;)
15 LESLIE BULL, an individual;)
16 CYCLE PERFORMANCE)
17 PRODUCTS, INC.; JOHN BASORE,)
18 an individual, and, DOES 1 to 100,)
19 Inclusive,)
20 Defendants.)
21 _____)
22)
23)
24)
25)
26)
27)
28)

Case No. 3:07-CV-02242 W (WMC)

REQUEST TO ENTER DEFAULT OF:
CYCLE PERFORMANCE PRODUCTS, INC.

Honorable Thomas J. Whelan
United States District Court Judge

Honorable William McCurine, Jr.
United States Magistrate Judge

1 **TO THE CLERK OF THIS HONORABLE COURT:**

2 Plaintiff Storz Performance, Inc. hereby and herewith respectfully requests that the Clerk
3 of this Honorable Court enter **DEFAULT** in the above entitled cause against Defendant
4 **CYCLE PERFORMANCE PRODUCTS, INC.** in accordance with, *inter alia*,
5 F.R.Civ.P., Rule 55(a) and upon the ground that said Defendant has failed to appear or otherwise
6 respond to the Complaint within the time prescribed by the Federal Rules of Civil Procedure.

7 Plaintiff Storz Performance, Inc. served the Complaint in this cause of action upon
8 Defendant **CYCLE PERFORMANCE PRODUCTS, INC.** on February 21, 2008 as evidenced by the
9 Proof of Service on file with this Honorable Court.

10 In accord with F.R.Civ.P., Rule 55(a), Plaintiff respectfully submits the declaration of Steele
11 N. Gillaspey in support, concurrently with the filing hereof.

12 Respectfully submitted,

13 DATED: March 18, 2008

14 **GILLASPEY & GILLASPEY**

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17 By: / s / Steele N. Gillaspey
18 Steele N. Gillaspey, Esq.,
19 Attorney for Plaintiff,
STORZ PERFORMANCE, INC.

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I, the undersigned, do declare that I am employed in the county aforesaid; that I am over the age of eighteen [18] years and not a party to the within entitled action; and that I am executing this proof at the direction of a member of the bar of the above entitled Court. The business address is:

GILLASPEY & GILLASPEY
The NBC Tower, 225 Broadway, Suite 2220
San Diego, California 92101

■ MAIL. I am readily familiar with the business' practice for collection and processing of correspondence for mailing via the United States Postal Service and that the correspondence would be deposited with the United States Postal Service for collections that same day.

FAXSIMILE. I am readily familiar with the business' practice for collection and processing of correspondence for electronic transmission and that the correspondence was successfully transmitted by facsimile that same day in the ordinary course of business.

OVERNIGHT. I am readily familiar with the business' practice for collection and processing of correspondence for overnight delivery/receipt next day via a major carrier such as UPS, FED EX, DHL or similar carrier, and same were deposited that same day.

ELECTRONIC. I am readily familiar with the business' practice for collection and processing of documents via its electronic (e-mail) system and said documents were successfully transmitted via e-mail that same day.

PERSONAL. The below described documents were personally served that day.

On the date indicated below, I served the within:

REQUEST FOR DEFAULT (CYCLE PERFORMANCE)

The above documents were served as set forth above and addressed as follows:

John Basore
2724 Spring Garden Road
Winston-Salem, N.C. 27106

Leslie Bull
1060 Petaluma Boulevard N.
Petaluma, CA 94952

Cycle Performance Products, Inc.
2724 Spring Garden Road
Winston-Salem, N.C. 27106

Moto Italia
1060 Petaluma Boulevard N.
Petaluma, CA 94952

I declare under penalty of perjury, under the laws of the United States, that the foregoing is true and correct and was **EXECUTED** on March 19, 2008 at San Diego, California.

/s/ Toni L. Mathias

Toni L. Mathias

1 Steele N. Gillaspey, Esq.
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5 225 Broadway, Suite 2220
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9 STORZ PERFORMANCE, INC.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

STORZ PERFORMANCE, INC.,)
a California corporation,)
Plaintiff,)
vs.)
MOTO ITALIA, form unknown;)
LESLIE BULL, an individual;)
CYCLE PERFORMANCE)
PRODUCTS, INC.; JOHN BASORE,)
an individual, and, DOES 1 to 100,)
Inclusive,)
Defendants.)

Honorable Thomas J. Whelan
United States District Court Judge

Case No. 3:07-CV-02242 W (WMC)

**DECLARATION OF
STEELE GILLASPEY
IN SUPPORT OF**

**REQUEST TO ENTER DEFAULT OF:
CYCLE PERFORMANCE
PRODUCTS INC.**

Honorable Thomas J. Whelan
United States District Court Judge

Honorable William McCurine, Jr.
United States Magistrate Judge

I, STEELE N. GILLASPEY, do state and declare as follows:

1. I am an attorney admitted to practice before the bar of this Honorable Court, and in such capacity do represent the Plaintiff in the above entitled cause.

2. On February 21, 2008 at 3:00 p.m., Defendant Cycle Performance Products Inc., located at 2724 Spring Garden Road, Winston-Salem, North Carolina was personally served with the Summons and Complaint in the above entitled action. Jason Fogleman, process server, executed a Return of Service under penalty of perjury, which document is on file with this Honorable Court.

3. The time allowed by the Federal Rules of Civil Procedure for Cycle Performance Products Inc. to respond to the Complaint in this action has expired.

4. No request for extension of time was made by Defendant Cycle Performance Products Inc., nor was any extension of time granted by Plaintiff.

5. Defendant Cycle Performance Products Inc. has failed to file a pleading or motion permitted by law in response to the Complaint

I declare, under penalty of perjury under the laws of the United States, that the foregoing is true and correct. Executed at San Diego, CA on March 18, 2008.

/ s / STEELE N. GILLASPEY

STEELE N. GILLASPEY

I, the undersigned, do declare that I am employed in the county aforesaid; that I am over the age of eighteen [18] years and not a party to the within entitled action; and that I am executing this proof at the direction of a member of the bar of the above entitled Court. The business address is:

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GILLASPEY DEC RE: DEFAULT (CYCLE PERFORMANCE PRODUCTS INC.)

16 The above documents were served as set forth above and addressed as follows:

17 John Basore Leslie Bull
18 2724 Spring Garden Road 1060 Petaluma Boulevard N.
Winston-Salem, N.C. 27106 Petaluma, CA 94952

19 Cycle Performance Products, Inc Moto Italia
2724 Spring Garden Road 1060 Petaluma Boulevard N.
Winston-Salem, N.C. 27106 Petaluma, CA 94952

I declare under penalty of perjury, under the laws of the United States, that the foregoing is true and correct and was **EXECUTED** on March 19, 2008 at San Diego, California.

/s/ Toni L. Mathias

Toni L. Mathias